

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

531, 630

REC'D 09 DEC 2004

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Applicant's or agent's file reference 18030-PCT	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/03718	International filing date (day/month/year) 09 February 2004 (09.02.2004)	Priority date (day/month/year) 13 February 2003 (13.02.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): A 01 N 37/00 and US Cl.: 514/578			
Applicant WELLSTAT THERAPEUTICS CORPORATION			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☐ (sent to the applicant and to the International Bureau) a total of sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input checked="" type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

Date of submission of the demand 10 September 2004 (10.09.2004)	Date of completion of this report 02 December 2004 (02.12.2004)
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>Janice Ford</i> Ms. Cecilia Tsang Telephone No. 703-308-1235

Form PCT/IPEA/409 (cover sheet)(January 2004)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/03718

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ the international application as originally filed/furnished
- ☒ the description:
 - pages 1-68 as originally filed/furnished
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
- ☒ the claims:
 - pages 69-77 as originally filed/furnished
 - pages* NONE as amended (together with any statement) under Article 19
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
- ☐ the drawings:
 - pages NONE as originally filed/furnished
 - pages* NONE received by this Authority on _____
 - pages* NONE received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/figs NONE
- ☐ the sequence listing (*specify*): NONE
- ☐ any table(s) related to the sequence listing (*specify*): NONE

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/figs NONE
- ☐ the sequence listing (*specify*): NONE
- ☐ any table(s) related to the sequence listing (*specify*): NONE

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 12 and 13

because:

☐ the said international application, or the said claim Nos. _____ relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 12-13

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

International application No.
PCT/US04/03718

1. Statement

Claims 1-11 and 14-23	YES
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Claims NONE NO

Claims 1-11, 14-23	YES
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Claims NONE **NO**

Claims 1-11 and 14-23	YES
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Claims NONE NO

Claims 1-11 and 14-23 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the compounds embraced in claims 19-22 or the method of using the said compounds as described in claims 1-18 and 23.

Claims 1-11 and 14-23 meet the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

PATENT COOPERATION TREATY

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NOTE OF INFORMAL COMMUNICATION WITH THE APPLICANT

(PCT Rule 66.6)

International application No. PCT/US04/03718	Applicant's or agent's file reference 18030-PCT	Date of informal communication (day/month/year) 24 November 2004 (24.11.2004)
Applicant WELLSTAT THERAPEUTICS CORPORATION		

<u>Communication</u> <input checked="" type="checkbox"/> by telephone <input type="checkbox"/> personal	<u>Participants</u> <input checked="" type="checkbox"/> Identity checked <input type="checkbox"/> authorization checked <input type="checkbox"/> personally known <input checked="" type="checkbox"/> Applicant: WE/LLS,TAT THERAPEUTICS CORPORATION <input checked="" type="checkbox"/> Agent: Mr. Lewis K. Kreisler <input checked="" type="checkbox"/> Examiner(s): Examiner Hector M. Reyes
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Summary of communication:

Examiner contacted Applicant's representative in order to find out if Applicant would accept the preparation of the International Preliminary Exam Report (409) in place of a Written Opinion (408). Applicant's representative agreed with the Examiner's proposition.

- ☐ An extension of time limit is granted (Form PCT/IPEA/427).
- ☒ A copy of this note is being sent to the applicant with Form PCT/IPEA/429.

PCT/IPEA/424.

Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230 Form PCT/IPEA/428 (July 1992)	Authorized officer Ms. Cecilia Tsang Telephone No. 703-308-1235
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